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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES MICHAEL SFORZA,

Defendant and Appellant.

F055107

(Super. Ct. No. MF008139A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. Cory Woodward and John D. Oglesby, Judges.<sup>†</sup>

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Brian Alvarez and Kathleen A. McKenna, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Vartabedian, Acting P.J., Cornell, J. and Kane, J.

<sup>†</sup> Judge Woodward denied appellant's motion to suppress; Judge Oglesby accepted appellant's plea and sentenced him.

Defendant and appellant James Michael Sforza entered into a plea bargain after his suppression motion was denied. On appeal, he contends he was detained without reasonable cause; he contends all evidence against him must be suppressed. We will affirm the judgment.

### **Facts and Procedural History**

At 12:45 in the afternoon of December 17, 2007, Kern County Deputy Sheriff John Puga was patrolling a neighborhood in which there had been recent midday burglaries. As he drove by appellant and another man standing at the edge of the street, he noticed appellant turn away from the marked patrol car as if to conceal his identity. After Puga passed the men, they quickly crossed the street behind the patrol car and went around the corner of a brick wall where they were not visible to Puga. As they ran across the street, Puga noticed the men were dressed in bulky down coats, too warm for the day's weather, and were holding their hands at their waists. Based on previous drug and burglary arrests he had made in the neighborhood, appellant's attempt to conceal his identity from the passing patrol car, and the actions of the men in hiding themselves from Puga, Puga made a U-turn and drove to the edge of the long brick wall.

Puga saw the men about 15 yards from the street along the wall. He stopped and asked them to come over to his car. They did not respond except that they reached for their waistbands. Puga thought they were either hiding something or preparing to draw weapons. After he asked them to come to him twice more, with the same lack of response, Puga drew his sidearm and ordered the men to his car.

Eventually, and under circumstances not relevant to this appeal, the detention led to the discovery of ammunition at appellant's home and appellant's plea of guilty to one count of possession of ammunition by a convicted felon, a violation of Penal Code section 12316, subdivision (b)(1). He also admitted a prior strike. Appellant was sentenced to two years eight months in prison pursuant to the plea agreement.

### **Discussion**

In essence, appellant argues that each circumstance that led Puga to detain appellant was insufficient, in itself, to support an objectively reasonable conclusion that criminal activity was afoot and that appellant was involved in it. (See *Terry v. Ohio* (1968) 392 U.S. 1, 21-22.) The constitutional standard for lawful detention, by contrast, requires that the court examine the totality of the circumstances known to the officer. (See *Ohio v. Robinette* (1996) 519 U.S. 33, 39.)

Viewed as a whole, appellant's actions clearly gave Puga reasonable cause to detain him. (See *Illinois v. Wardlow* (2000) 528 U.S. 119, 123-124.) Appellant was on the street in an area of daytime burglaries wearing a bulky coat that was too warm for the weather, under which a weapon or contraband could be concealed. When he saw Puga's patrol car, appellant turned away as if to hide his identity. Then, at the first opportunity, appellant fled and hid behind the brick wall. When confronted by Puga, appellant made furtive gestures to his waistband, as if to hide contraband or to pull a weapon. Thus, the circumstances of appellant's flight from Puga support the conclusion that appellant's flight indicated consciousness of guilt that was sufficiently indicative of criminal conduct to support the detention. (See *People v. Souza* (1994) 9 Cal.4th 224, 235-239; see also *People v. Britton* (2001) 91 Cal.App.4th 1112, 1118-1119 [fact that two persons fled "bolsters the reasonableness of the suspicion that there is criminal activity brewing"].)

The trial court correctly denied the suppression motion.

### **Disposition**

The judgment is affirmed.